

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1275

IN THE MATTER OF:

Served September 6, 1973

Petition of The Gray Line, Inc.)
To Institute an Investigation)
into the Reasonableness of Sight-)
seeing Commissions.)

Docket No. 248

In response to a petition filed by The Gray Line, Inc. (Gray Line), which sought the institution of a formal investigation into the reasonableness of the rate of commission paid by certain carriers to agents and others who generate passengers for sightseeing service, we issued our Order No. 1267. Therein, we directed all carriers to furnish certain factual information which we felt would aid us in the proper disposition of this matter. We also directed the carriers to set forth their positions with regard to Gray Line's request for a formal investigation. Such statements have now been filed and we have carefully considered them. We have decided to grant Gray Line's petition and institute a formal investigation into this matter.

The statements filed with us show that commissions as high as forty percent (40%) are being paid by some carriers to travel agents and others who generate passengers for sightseeing service. Gray Line, joined by Atwood's Transport Lines, Inc., asks us to investigate this practice contending that the allegedly excessive rate of commission is destructive of healthy competition and results in sightseeing rates which are unreasonably high. D. C. Transit System, Inc. and Washington, Virginia and Maryland Coach Company, Inc., oppose Gray Line's request contending that "there is no necessary relationship between a company's rate of agent commission and the reasonableness of its published charges for [sightseeing] tours." While these carriers may be correct in this contention, we believe the assertion is one which cannot be accepted without a factual record. On its face, it appears to us that the published fare for sightseeing service must take into account the carriers' overhead expenses which obviously include payments to travel agents and others in the form of commissions. It has also been suggested that the rate of commission paid to travel agents and others is a matter committed solely to management's discretion and that any investigation into these matters would impermissibly trench upon management's prerogatives.

Within broad limits, we certainly agree that the means and methods by which a carrier competes with other carriers for sightseeing passengers is a matter committed to the sound business judgment of its management. We reject the notion that such decisions are beyond the scope of regulatory oversight. We believe the matter is deserving of a full inquiry into the justness and reasonableness of the practice.

We will therefore institute a formal investigation into the commission practices of the carriers performing sightseeing service and we will make each such carrier a formal party to this investigation. The investigation which we today institute will probe the following issues:

1. Whether the rates of commission paid by carriers to agents and others for the generation of passengers for sightseeing services result in passenger fares which are unjust, unreasonable or unduly preferential within the meaning of Article XII, Section 6 of the Compact?
2. Whether the terms and arrangements for payment of commissions to agents and others for the generation of passengers for sightseeing services constitutes a "practice" required to be published and observed pursuant to Article XII, Sections 5 and 6 of the Compact?
3. Whether the rates of commission paid by carriers to agents and others for the generation of passengers for sightseeing services has an unreasonable effect upon the adequacy of the sightseeing service offered by the carrier?
4. Whether the rates of commission paid by carriers to agents and others for the generation of passengers for sightseeing services has an unreasonable effect upon the carriers' rates of return and, if so, whether the carriers' accounts, records and reports may properly charge all or a part of such commission payments as direct operating costs rather than as a part of profit?

By setting forth the foregoing matters, we do not mean to limit the parties or the hearing officer from exploring related and relevant matters during the course of the investigation. The development of such other matters is committed to the sound discretion of the presiding officer to the end that a complete and concise record may be compiled and the issues appropriately resolved.

Since the carriers have had the opportunity to submit preliminary views in response to our Order No. 1267, and since the issues

appear to us to be clearly identified, we will assign this matter to a Hearing Examiner with directions to proceed directly to formal hearing in accordance with Rule 20 of our Procedural Rules. The hearing officer shall give all parties suitable notice of the date and place fixed for the hearing. Direct testimony shall be prepared and served on all parties and upon the Commission at least five days prior to the date fixed for the hearing, in accordance with our Rule 23-04.

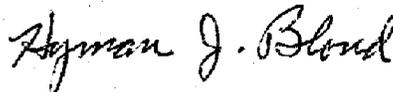
THEREFORE, IT IS ORDERED:

1. That the petition of Gray Line, Inc. for the institution of a formal investigation into the reasonableness of the rate of commissions paid to agents and others for the generation of passengers for sightseeing service be, and it hereby is, granted.

2. That this matter be, and it hereby is, scheduled for public hearing before a Hearing Examiner in the Hearing Room of the Commission, 1625 I Street, N.W., Room 314, Washington, D. C. 20006, at 10:00 A.M., Tuesday, October 2, 1973.

3. That the Gray Line, Inc. be, and it hereby is, directed to publish notice of the hearing in a newspaper of general circulation in the Metropolitan District on or before, Tuesday, September 18, 1973, in a form to be prescribed by the staff.

BY DIRECTION OF THE COMMISSION:



HYMAN J. BLOND
Executive Director